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BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF )  
FRED KRIZ, )  
d.b.a. SKYLINE HOUSE, )  
Appellant, )  
v. )  
PUGET SOUND AIR POLLUTION )  
CONTROL AGENCY, )  
Respondent. )

PCHB No. 882

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

THIS MATTER being the appeal of a \$50 civil penalty for an alleged smoke emission violation having come on regularly for a formal hearing before the Pollution Control Hearings Board on the 3rd day of September, 1975, at Tacoma, Washington; and appellant Fred Kriz not appearing, and respondent Puget Sound Air Pollution Control Agency appearing through its attorney Keith D. McGoffin; and Board members present at the hearing being Chris Smith and Walt Woodward; and the Board having considered the sworn testimony, exhibits, records and files herein and having entered

1 on the 9th day of September, 1975, its proposed Findings of Fact,  
2 Conclusions of Law and Order; and the Board having served said proposed  
3 Findings, Conclusions and Order upon all parties herein by certified mail,  
4 return receipt requested and twenty days having elapsed from said service;  
5 and

6 The Board having received no exceptions to said proposed Findings,  
7 Conclusions and Order; and the Board being fully advised in the premises;  
8 now therefore,

9 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed  
10 Findings of Fact, Conclusions of Law and Order, dated the 9th day of  
11 September, 1975, and incorporated by this reference herein and attached  
12 hereto as Exhibit A, are adopted and hereby entered as the Board's Final  
13 Findings of Fact, Conclusions of Law and Order herein.

14 DONE at Lacey, Washington, this 7th day of October, 1975.

15 POLLUTION CONTROL HEARINGS BOARD

16 Chris Smith  
17 CHRIS SMITH, Chairman

18 Walt Woodward  
19 WALT WOODWARD, Member

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25  
26 FINAL FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW AND ORDER

CERTIFICATION OF MAILING

I, Dolores Osland, certify that I deposited in the United States mail, copies of the foregoing document on the 7th day of October, 1975, to each of the following-named parties, at the last known post office addresses, with the proper postage affixed to the respective envelopes:

Mr. Fred Kriz  
Skyline House  
c/o Park Avenue Developments, Ltd.  
Real Estate Division  
1023 West Broadway  
Vancouver, B.C., V6H 1E2

Mr. Keith D. McGoffin  
Burkey, Marsico, Rovai, McGoffin,  
Turner and Mason  
P. O. Box 5217  
Tacoma, Washington 98405

Puget Sound Air Pollution  
Control Agency  
410 West Harrison Street  
Seattle, Washington 98119

Dolores Osland  
DOLORIES OSLAND, Clerk of the  
POLLUTION CONTROL HEARINGS BOARD

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

BEFORE THE  
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This matter, the appeal of a \$50 civil penalty for an alleged smoke emission violation of respondent's Regulation I, came before the Pollution Control Hearings Board (Chris Smith, presiding officer, and Walt Woodward) at a formal hearing in the Department of Public Utilities, Tacoma, on September 3, 1975.

Appellant did not appear, although the hearing was delayed for 30 minutes beyond its scheduled starting time. Respondent appeared through Keith D. McGoffin. Jennifer Rowland, Olympia court reporter, recorded the proceedings.

EXHIBIT A

1 Witnesses were sworn and testified. Exhibits were admitted.

2 From testimony heard and exhibits examined, the Pollution  
3 Control Hearings Board makes these

4 FINDINGS OF FACT

5 I.

6 Respondent, pursuant to Section 5, chapter 69, Laws of 1974,  
7 3d Ex. Sess., has filed with this Board a certified copy of its  
8 Regulation I containing respondent's regulations and amendments  
9 thereto.

10 II.

11 Section 9.03 of respondent's Regulation I makes it unlawful  
12 to cause or allow the emission for more than three minutes in any  
13 one hour of an air contaminant darker in shade than No. 2 on the  
14 Ringelmann Chart. Section 3.29 authorizes respondent to levy a  
15 civil penalty of not more than \$250 for each violation of Regulation I.

16 III.

17 On April 14, 1975, from the stack of appellant's Skyline House,  
18 600 W. Olympic Place, Seattle, King County, there was emitted for  
19 at least nine consecutive minutes black smoke equivalent in shade  
20 to No. 5 on the Ringelmann Chart.

21 IV.

22 This emission, observed by two inspectors on respondent's staff,  
23 resulted in respondent serving on appellant Notice of Violation No.  
24 10628 and, subsequently, in connection therewith, Notice of civil  
25 penalty No. 2031 in the sum of \$50, which is the subject of this  
26 appeal.

27 FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

1 V.

2 Appellant had ample notice of the scheduled hearing in this  
3 matter and, in addition, was given at least two opportunities to  
4 request a continuance of the hearing but did not do so.

5 VI.

6 Any Conclusion of Law hereinafter stated which is deemed  
7 to be a Finding of Fact is adopted herewith as same.

8 From these Findings, the Pollution Control Hearings Board  
9 comes to these

10 CONCLUSIONS OF LAW

11 I.

12 Appellant was in violation of respondent's Regulation I  
13 as cited in Notice of Violation No. 10628.

14 II.

15 Notice of Civil Penalty No. 2031 is reasonable.

16 III.

17 Any Finding of Fact herein which is deemed to be a Conclusion  
18 of Law is adopted herewith as same.

19 Therefore, the Pollution Control Hearings Board issues this

20 ORDER

21 The appeal is denied and Notice of Civil Penalty No. 2031 in  
22 the sum of \$50 is sustained.

23 DONE at Lacey, Washington this 9th day of September, 1975.

24 POLLUTION CONTROL HEARINGS BOARD

25 Chris Smith  
26 CHRIS SMITH, Chairman

27 FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

Walt Woodward  
WALT WOODWARD, Member